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PERB CASE NO. LA-IM-249-M
FACTFINDER CASE NO. 17-10-11FF
File No. 17-06

FACTFINDING PROCEEDINGS PURSUANT TO
THE MEYERS-MILIAS-BROWN ACT

CITY OF CORONA

and

CORONA SUPERVISORS ASSOCIATION

Issue: 2017 Successor MOU Negotiations Impasse

NEUTRAL FACTFINDER
PANEL CHAIR
RECOMMENDATIONS

October 31, 2017

FACTFINDING PANEL

Factfinder for the Union:

Stephen D. Leonesio
Labor Relations
Representative
Mastagni Holstedt APC

Factfinder for the Employer:

Jeffrey C. Freedman
Attorney
Liebert Cassidy Whitmore

Neutral Factfinder Panel Chair:

Renée Mayne
Arbitrator, Mediator

APPEARANCES

For the Union:

John H. Bakhit
Attorney
Mastagni Holstedt APC

For the Employer:

Daphne M. Anneet
Attorney
Burke, Williams & Sorensen, LLP

INTRODUCTION

This factfinding arose due to an impasse in collective bargaining under the State of California Meyers-Milias-Brown Act (MMBA) Government Code §3505.4 between the Corona Supervisors Association (Union) and the City of Corona (Employer, City).

Under the procedures of the California Public Employment Relations Board (PERB), Renée Mayne was selected by the parties to serve as the Neutral Factfinder Panel Chair. The parties agreed all procedural requirements of the impasse had been met, and the matter was properly before the Panel to issue a recommendation to resolve the collective bargaining dispute.

The factfinding hearing was held on October 16, 2017, at Corona City Hall, 400 South Vicentia Avenue, Corona, California. The parties had full opportunity to present and submit relevant exhibits and evidence, and to discuss and argue the issues in dispute. After the conclusion of the hearing, the factfinding record was officially closed and the dispute was deemed submitted for the Panel's review and recommendations.

ISSUES AT IMPASSE

The City of Corona and the Corona Supervisors Association stated the parties were at impasse over the following issues: (Employer p.2; Union Ex.11)

1. Eliminate Compensatory Time – Article X. Section 10.2
2. Adopt FLSA Definition of Overtime – Article X. Section 10.1
3. Cap Medical Allowance – Article IV. Section 4.3.1
4. Cap Tier II Medical Difference – Article IV. Section 4.3.1(B)
5. Increase Medical Insurance Opt Out Benefit – Article IV. Section 4.3.2
6. Create a Tier IV
7. Eliminate Flex Spending – Article IV. Section 4.2
8. Restructure Certificate Pay – Article XII. Section 12.1
9. Restructure Spanish Pay – Article XII. Section 12.5
10. Cap Tuition Reimbursement – Article IV. Section 4.5.4
11. Annual Leave Buy-Back Calculated on Base Hourly Rate Only – Article VII. Section 7.1.9
12. Call Out Pay Assignment – Article XII. Section 12.2
13. Cost of Living Adjustment and Term of Agreement

GOVERNING STATUTE

The Meyers-Milias-Brown Act Government Code §3505.4(d) sets forth the criteria to be used in the factfinding process.

In arriving at their findings and recommendations, the factfinders shall consider, weigh, and be guided by all the following criteria:

- (1) State and federal laws that are applicable to the employer.
- (2) Local rules, regulations or ordinances.
- (3) Stipulations of the parties.
- (4) The interests and welfare of the public and the financial ability of the public agency.
- (5) Comparison of the wages, hours, and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours, and conditions of employment of other employees performing similar services in comparable public agencies.
- (6) The consumer price index for goods and services, commonly known as the cost of living.
- (7) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (8) Any other facts, not confined to those specified in paragraphs (1) to (7), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations.

FACTUAL BACKGROUND

The City and Union began negotiating a successor Memorandum of Understanding (MOU, Agreement) in April 2016. In early August 2016, the parties reached a tentative agreement, and on August 11, 2016, the Union's membership voted it down.

In the fall 2016, the City met with the Union to present information about the structural financial deficit the City was projecting. The City and Union resumed negotiations on March 23, 2017, at which time the City made another proposal. The Union did not accept this proposal but presented a counter proposal. However, the Union's proposal did not satisfy the City's requirement for employee concessions, and the City issued its last, best and final offer on July

25, 2017. The Union's membership voted on the City's last, best and final offer on July 27, 2017, and they rejected it. The Union made a counter proposal on August 25, 2017, and then another counter proposal with costing on August 29, 2017. Thereafter, the City declared impasse on August 30, 2017. The Union made its final counter proposal on September 14, 2017. (Employer Tab: Declaration of Impasse; Union Ex.23)

POSITION OF THE UNION

The Union did not concur that the City would, with certainty, have a future structural budget deficit, because in the Union's view the current fiscal health of the City was not indicative of a future decline. The Union provided data to show the City's fiscal trend was increased revenues and reserves. (Union Tabs 2, 3 and 4)

The Union began successor MOU negotiations with the City in April 2016, with a proposed 6% cost of living increase and a one-year agreement. The Union's proposal also included certification pay for Dispatch Supervisors, return rights from layoff ("bumping rights") and increases in employee benefits. The City provided a proposal on July 20, 2016. In early August 2016, the parties reached a tentative agreement; however, on August 11, 2016, the Union's members voted it down.

Negotiations resumed in March 2017, and the City presented a proposal with extensive salary and benefit reductions on March 23, 2017, followed by another proposal on June 15, 2017. The City then issued its last, best, and final offer on July 25, 2017.

The Union concurred that employees had extraordinary benefits which were very costly to the City, and on August 17, 2017, the Union met with the City to discuss the City's last, best and final proposal. The Union then presented a comprehensive counter proposal on August 25, 2017, which included agreement with many of the City's proposals for salary and benefits concessions. The Union agreed to eliminate compensatory time, limit paid overtime pursuant to

the Fair Labor Standards Act, scale back City contributions for employee health insurance premiums, include the creation of a Tier IV health benefit level for new employees, modify certificate and Spanish pay from a percentage of base salary to flat dollar pay, cap tuition reimbursement, and a 2% salary increase. (Union Ex.12)

During the factfinding hearing on October 16, 2017, the Union was willing to agree to most of the City's demands for employee benefits and pay concessions, but stated the changes should be phased in over three years to lessen the financial impact on employees. Additionally, the Union had its own proposals. (Union Ex.11) The Union proposed a four-year agreement and estimated it would save the City \$154,203 in Year 1, \$203,711 in Year 2, \$187,280 in Year 3, and \$234,561 in Year 4. The Union's position on the issues at the time of impasse are as follows: (Union Ex.11)

1. Eliminate Compensatory Time – Union agreed.
2. Adopt FLSA Definition of Overtime – Union rejected.
3. Cap Medical Allowance – Union counter proposal: For Tier II and III employees, the City health insurance premium contributions would equal 2018 Kaiser Employee, Employee plus One, and Family rates, and the City and Employee would cost share 50–50 future increased health premiums; Medical Allowance for Tier I would remain status quo.
4. Cap Tier II Medical Difference – Union counter proposal: Reduce Medical Difference over time, and as an offset, the City would provide Tier II employees annual \$3,000 cash payments to be deposited in a health insurance retirement savings account.
5. Increase Medical Insurance Opt Out Benefit – Union rejected.
6. Create a Tier IV – Union agreed.
7. Eliminate Flex Spending – Union agreed.
8. Restructure Certificate Pay – Union agreed.
9. Restructure Spanish Pay – Union agreed.
10. Cap Tuition Reimbursement – Union agreed.
11. Annual Leave Buy-Back Calculated on Base Hourly Rate Only – Union rejected.

12. 2% COLA – Union agreed, effective first pay period in January 2018.
13. Two Year Contract – Union rejected and proposed a four-year agreement.
14. Call Out Pay – Union proposed to replace the list of bargaining unit positions in the MOU eligible for Call Out Pay with: Animal Control Supervisor, Chief Reclamations Operator, Chief Water Operator, Chief Traffic Engineer, Construction Superintendent, Environmental Compliance Supervisor, Maintenance Manager, Maintenance Supervisor, Operations Manager, Parks Superintendent, Police Records Supervisor, Public Safety Dispatch Supervisor, Public Works Program Manager, Public Works Inspection Supervisor, Recreation Supervisor, Support Services Manager, and Traffic Signal Supervisor.
15. Additional Compensation Items – Union proposed salary increases and CalPERS pension cost sharing:
 - July 1, 2018 – 2.5% salary increase and 2% PERS cost sharing;
 - July 1, 2019 – 2.5% salary increase, 1% PERS cost sharing, and 1% toward Annual Retiree Health Contribution; and
 - July 1, 2020 – 2.5% salary increase and 2% PERS cost sharing.

POSITION OF THE CITY

The City's position was that, faced with a large and growing structural deficit that would lead to insolvency, it had the inability to pay the salary and benefit proposals made by the Union in these successor MOU negotiations. The City's current 2017-18 budget was adopted with expenses exceeding revenue, and reserve funds were budgeted to close the deficit. The City said this structural deficit was forecasted to be ongoing, with no end in the foreseeable future. The City forecasted that revenues would not keep up with growing expenses going forward. Personnel costs continued to rise, especially CalPERS pension costs and health insurance premiums. The City stated that it was on the path to insolvency. (Employer p.6) The gap between revenue and expenditures was expected to be \$1.9 million in fiscal year 2017-18, and was forecasted to grow to \$15.5 million by 2021-22. (Employer p.9)

The City currently has an emergency contingency fund of \$30 million. The City's presentation cited the figure of \$32.25 million as 90 days of operating costs. The current reserves fall short of the City's reserve policy for a 90-day reserve. (Employer p.12)

The City also has a budget balancing reserve to maintain critical services that may be impacted by sudden economic or legislative changes that would adversely affect revenue. The budget balancing reserve was \$19.4 million on June 30, 2016. (Employer p.10) The City forecasted that in 2017-18 it would use \$1.9 million in reserves to balance the budget, and the budget gap would grow in 2018-19 to require an additional \$6.7 million from reserves. In 2019-20, the budget was forecasted to be \$14.5 million short and require that amount to be transferred from reserves, which would deplete the reserve fund. Moreover, the City projected that in 2020-21 the budget gap would be \$14.4 million. In 2021-22, the City projected to be insolvent when the budget gap would be \$15.5 million, and the budget balancing reserve and the emergency contingency reserve would be depleted. (Employer p.15)

The City said it is unable to grow revenue at the same rate of expenses. Personnel costs comprised 70% of the City's operating budget, with the CalPERS pension costs and health insurance premiums continuing to rise. A recent Fair Labor Standards Act (FLSA) decision¹ had increased overtime cost. The City of Corona is a full-service city with only 26% of revenue available for service and supply costs. Deferred maintenance and repairs would be more expensive in the future. (Employer p.16)

The City's forecasting was based upon minimal changes in its largest sources of income: sales tax, property tax and charges for services. Sales tax, the second largest of the three, is affected by shoppers choosing online purchases, fluctuations in fuel prices, building and construction activity and the unemployment rate. (Employer p.22)

Personnel costs represent the City's largest expense. Major factors that impacted personnel costs were the underperformance of CalPERS investments, its mortality rate assumptions, the change in investment rate of return, and investment policy and strategy. The

¹ Flores vs. City of San Gabriel (9th Cir. 2016) The court concluded the City's payment of unused health benefits must be used to calculate the regular rate of pay.

City-required contributions to CalPERS were estimated to be \$38.3 million in 2022-23, a \$16.5 million increase from 2016-17. (Employer p.27)

The City explained there were personnel costs that were not in the City's control: CalPERS pension contributions, health insurance premiums, and workers compensation. These costs had increased over 15 years: CalPERS 304%, Health Insurance 95%, and Workers Compensation 100%. (Employer p.28) In fiscal year 2017-18, the City must pay CalPERS \$.42 on each payroll dollar, and that is scheduled to rise to \$.48 in 2018-19. (Employer p.26) The City's CalPERS funded liability ratio for employees in the Union was 60%. (Employer p.49)

The City saw a future with increased CalPERS pension contributions, continuous increases in health insurance premiums, the inability to pay CalPERS' annual contributions in future years, a decline in the CalPERS funded liability, an impact to the current City credit rating of AA-, and the inability to maintain the City's infrastructure. (Employer p.32) The City had already sold unused land parcels and equipment, eliminated employee positions, eliminated fleet vehicles, consolidated departments, refinanced debt, implemented zero-based budgeting, and entered the personnel vacancy rate into the budget. (Employer p.38) Since 2006-07, the City had reduced its workforce 28%. (Employer p.43) In this negotiation with the Union, the City emphasized transparency, and sought to restructure salary and benefits toward the overall need to reduce expenses. (Employer p.55)

To slow the City's losses, it made the following proposals to the Union:

1. Eliminate Compensatory Time – Article VIII. Section 8.2
2. Adopt FLSA Definition of Overtime – Article VIII. Section 8.1
3. Cap Medical Allowance – Article IV. Section 4.4.1
4. Cap Tier II Medical Difference – Article IV. Section 4.4.1(B)
5. Increase Medical Insurance Opt Out Benefit – Article IV. Section 4.4.2
6. Create a Tier IV
7. Eliminate Flex Spending – Article IV. Section 4.3
8. Restructure Certificate Pay – Article XI. Section 11.5
9. Restructure Spanish Pay – Article XI. Section 11.3
10. Cap Tuition Reimbursement – Article IV. Section 4.8

11. Annual Leave Buy-Back Calculated on Base Hourly Rate Only – Article VII. Section 7.2.11
12. Cost of Living Adjustment 2% Year One, Two-Year Agreement

NEUTRAL FACTFINDER PANEL CHAIR DISCUSSION

The Panel Chair finds the City proved that it has a significant financial concern due to minimal changes in revenue, and rapidly increasing costs for employee benefits, particularly with health insurance premiums, CalPERS pension contributions, and the future cost of the City's unfunded pension liability.

Eliminate Compensatory Time – The Union agreed² to the City's proposal to eliminate compensatory time. Based upon the criteria contained in MMBA Government Code §3504(d)(3), the Neutral Factfinder Panel Chair recommends the City's proposal.

Adopt FLSA Definition of Overtime – The Union agreed to the City's proposal to adopt the FLSA definition of overtime. Based upon the criteria contained in MMBA Government Code §3504(d)(3), the Neutral Factfinder Panel Chair recommends the City's proposal.

Cap Medical Allowance – The City proposed to cap its annual maximum health insurance contribution at \$18,764 for Family, \$14,434 for Employee + One, and \$7,217 for Employee-Only. The Union proposed to Cap Tier II and III City contributions at the 2018 Kaiser Employee, Employee plus One, and Family rates. The Union's proposal included future health insurance premium increases be shared 50–50 between the City and Employee for Tier II and III employees. The Union proposed Tier I employees' Medical Allowance remain status quo.

The cost of health insurance premiums is one of the major elements of the City's forecast for insolvency. Based upon the criteria contained in MMBA Government Code §3504(d)(4), the

² All of the Union's agreements were part of their counterproposals, and pending until full agreement was reached with the City.

Neutral Factfinder Panel Chair recommends the City's proposal, effective January 1, 2019. This date is recommended because the open enrollment period has passed, and employees needed to know what their out-of-pocket cost would be in 2018 when they selected their plan.

Cap Tier II Medical Difference – The City has three tiers of health benefits options based upon the year of hire. Tier II employees have the option of cashing out the difference between their health insurance premium allowance and the cost of the plan they select. The City proposal is to cap the annual Medical Difference cash out at \$11,400 for Family, \$8,400 for Employee +1 and \$4,200 for Employee-Only. The Union rejected the City's proposal and proposed to cap Medical Difference at the 2017 rate each employee was at, and then reduce that by one-third in January 2018, and again, one-third in January 2019. Thereafter, the Tier II Medical Difference would be removed in January 2020. The Union proposed an offset of \$3,000 per year into a health savings retirement account for all Tier II employees.

Based upon the criteria contained in MMBA Government Code §3504(d)(4) and (7), the Neutral Factfinder Panel Chair recommends the City proposal, with two offset payments to eligible employees. The Panel Chair recommends for Tier II employees who received in calendar year 2017 up to \$4,500 in Medical Difference cash out, that the employee will receive as an offset the amount equal to the Medical Difference, not to exceed \$4,500, paid in the same manner Medical Difference is currently paid by the City to Tier II employees. The same methodology would be applied to the second and last offset, of \$3,000 in 2019 to eligible employees.

Increase Medical Insurance Opt Out Benefit – The Union rejected the City's proposal to increase the annual medical insurance opt-out to \$12,000 for Family, \$9,000 for Employee + One, and \$5,400 for Employee-Only. Based upon the criteria contained in MMBA Government Code §3504(d)(4) and (7), the Neutral Factfinder Panel Chair recommends the City's proposal.

Create a Tier IV –The City has three tiers of health benefits options based upon year of hire, and this proposal would create a fourth tier. The Union agreed to the City’s proposal to create a Tier IV. Based upon the criteria contained in MMBA Government Code §3504(d)(3), the Neutral Factfinder Panel Chair recommends this proposal.

Eliminate Flex Spending – The Union agreed to the City’s proposal to eliminate the Flex Spending benefit. Based upon the criteria contained in MMBA Government Code §3504(d)(3) and (4), the Neutral Factfinder Panel Chair recommends the City’s proposal.

Restructure Certificate Pay – The Union agreed to the City’s proposal to eliminate Certificate Pay as a percentage of base salary, and to establish the pay as a flat dollar amount paid per payroll period. The City’s proposal would replace 5% of base pay with \$3,765 per year for the Emergency Medical Dispatch certificate, and replace 15% of base pay with \$16,405 per year for the Grade 5 certificate. Based upon the criteria contained in MMBA Government Code §3504(d)(3) and (4), the Neutral Factfinder Panel Chair recommends the City’s proposal.

Restructure Spanish Pay – The Union agreed to the City’s proposal to eliminate Spanish Pay as a percentage of base salary, and to establish a flat dollar amount paid per payroll period. The City’s proposal would replace 4% of base pay to \$3,520 per year, and rename the pay to “Bilingual Pay,” which the Union also agreed. Based upon the criteria contained in MMBA Government Code §3504(d)(3) and (4), the Neutral Factfinder Panel Chair recommends the City’s proposal.

Cap Tuition Reimbursement – The Union agreed to the City’s proposal to cap tuition reimbursement. The City’s proposal was to cap annual tuition reimbursement at \$2,500 per year, with a lifetime maximum benefit of \$10,000 and to grandfather-in current employees with an

approved education plan. Based upon the criteria contained in MMBA Government Code §3504(d)(3) and (4), the Neutral Factfinder Panel Chair recommends the City's proposal.

Annual Leave Buy-Back Calculated on Base Hourly Rate Only – The Union rejected this proposal. Annual leave taken is paid at the regular rate of pay. Cashing out leave at the hourly rate, as proposed by the City, would still be a benefit for employees who accrue more leave time than they choose to use. Based upon the criteria contained in MMBA Government Code §3504(d)(4), the Neutral Factfinder Panel Chair recommends the City's proposal.

Call-Out Pay – The Union proposed to replace 22 bargaining unit positions listed in the MOU that receive Call-Out Pay, with 17 positions listed below. Ten positions currently receiving Call-Out Pay under the MOU are italicized: *Animal Control Supervision, Chief Reclamations Operator, Chief Water Operator, Chief Traffic Engineer, Construction Superintendent, Environmental Compliance Supervisor, Maintenance Manager, Maintenance Supervisor, Operations Manager, Parks Superintendent, Police Records Supervisor, Public Safety Dispatch Supervisor, Public Works Program Manager, Public Works Inspection Supervisor, Recreation Supervisor, Support Services Manager, and Traffic Signal Supervisor.*

The current list of bargaining unit positions receiving Call-Out Pay in the Agreement are: District Engineer, Utility Maintenance Superintendent, Utility Construction Superintendent, Instrumentation and Control Engineer, *Chief Reclamations Operator, Chief Water Operator, Maintenance Manager, Operations Manager, Senior Utility Engineer, Maintenance Supervisor, Fire Apparatus/Communication Supervisor, Landscape Contract Manager, Park Maintenance Supervisor, Recreation Supervisor, Animal Control Manager, Animal Control Supervisor, Police Records Supervisor, Public Safety Dispatch Supervisor, Building/Facilities Maintenance Supervisor, Public Works Inspection Supervisor, Public Works Manager, Street Maintenance Supervisor, and Traffic Engineer.*

The Union costed this proposal at \$1,071 in each year of their proposed four-year agreement and the City did not dispute this cost in the factfinding hearing. In MOU Article XII.12.2 Call-Out Pay states, “The City agrees that designated supervisors within various departments shall be awarded four (4) hours at their current rate of pay per pay period in lieu of additional compensation for regularly scheduled “call-out” assignments. Effective July 8, 2006 Call-Out pay will be paid at the top step of the Association member’s salary range.”

The City did not state an objection in the hearing to this proposal. Based upon the criteria contained in MMBA Government Code §3504(d)(7), the Neutral Factfinder Panel Chair recommends the Union’s proposal.

COLA and Term of Agreement – The City proposed a two-year agreement with a 2% salary increase in year one of a two-year agreement, with a contract expiration date of June 30, 2019. The Union agreed to the 2% proposal in year one, and further proposed additional compensation for a four-year agreement: July 1, 2018 – 2.5% salary increase and 2% PERS cost sharing; July 1, 2019 – 2.5% salary increase, 1% PERS cost sharing, 1% toward Annual Retiree Health Contribution; and July 1, 2020 – 2.5% salary increase and 2% PERS cost sharing.

Based upon the criteria contained in MMBA Government Code §3504(d)(4) and (7), the Neutral Factfinder Panel Chair recommends the City’s proposal for a 2% salary increase in year one, and a two-year agreement expiring on June 30, 2019.

NEUTRAL FACTFINDER PANEL CHAIR RECOMMENDATION

1. Eliminate Compensatory Time Article VIII. Section 8.2 – The Union agreed with the City proposal, and the Panel Chair recommends the City’s proposal.
2. Adopt FLSA Definition of Overtime Article VIII. Section 8.1 – The Union agreed with the City proposal, and the Panel Chair recommends the City’s proposal.
3. Cap Medical Allowance Article IV. Section 4.4.1 – The Union agreed with the City’s proposal to cap Medical Allowance in part. The Panel Chair recommends the City’s proposal, modified to be effective January 1, 2019.
4. Cap Tier II Medical Difference Article IV. Section 4.4.1(B) – The Union agreed with the City’s proposal to cap Medical Difference in part. The Panel Chair recommends the City’s proposal, with two offset payments to eligible employees. The Panel Chair recommends for Tier II employees who received in calendar year 2017 up to \$4,500 in medical difference cash out, that the employee would receive as an offset the amount equal to the medical difference, not to exceed \$4,500, paid in the same manner medical difference is currently paid by the City to Tier II employees. The same methodology would be applied to the second and last offset, of \$3,000 in 2019 to eligible employees.
5. Increase Medical Insurance Opt Out Benefit Article IV. Section 4.4.2 – The Panel Chair recommends the City’s proposal.
6. Create a Tier IV – The Union agreed with the City proposal, and the Panel Chair recommends the City’s proposal.
7. Eliminate Flex Spending Article IV. Section 4.3 – The Union agreed with the City proposal, and the Panel Chair recommends the City’s proposal.
8. Restructure Assignment Pay Article XI. Section 11.4 – The Union agreed with the City proposal, and the Panel Chair recommends the City’s proposal.
9. Restructure Spanish Pay Article XI. Section 11.3 – The Union agreed with the City proposal, and the Panel Chair recommends the City’s proposal.
10. Cap Tuition Reimbursement Article IV. Section 4.8 – The Union agreed with the City proposal, and the Panel Chair recommends the City’s proposal.
11. Annual Leave Buy-Back Calculated on Base Hourly Rate Only Article VII. Section 7.2.11 – The Panel Chair recommends the City’s proposal.

12. Call-Out Pay – The Panel Chair recommends the Union’s proposal.
13. Cost of Living Adjustment and Term of Agreement – The Union agreed with the City’s proposal in part, for a 2% salary increase in year one, and the Panel Chair recommends the City proposal for a 2% salary increase in year one, and a two-year agreement, expiring on June 30, 2019.



RENÉE MAYNE

Neutral Factfinder Panel Chair



Date

Factfinder for the Union: Stephen D. Leonesio, Labor Relations Representative, Mastagni Holstedt APC, provided the attached letter with his concurrences and dissents of the Neutral Factfinder Panel Chair’s recommendations.

Factfinder for the Employer: Jeffrey C. Freedman, Attorney, Liebert Cassidy Whitmore, provided the attached letter with his concurrences and dissents of the Neutral Factfinder Panel Chair’s recommendations.

CORONA SUPERVISORS ASSOCIATION PARTIAL DISSENT:

As noted in the Neutral Factfinder Panel Chair Recommendations, the Association only agreed with some of the City's Last, Best and Final Offer proposals as part of an overall settlement. Since the parties have not come to an agreement, the Association does dissent with the following recommendations from the Neutral Factfinder.

2. Adopt FLSA Definition of Overtime, Article VIII, Section 8.1 - The Panel Members asked for specific details about the problem with the current way overtime is obtained and paid. The City stated that overtime abuse was a city-wide problem with its employees but could not provide specific details and/or instances with this Association. The City acknowledged that management currently has the ability to schedule and/or deny overtime as needed. The City also acknowledged there were currently only four members of the Association that had the ability to work overtime.

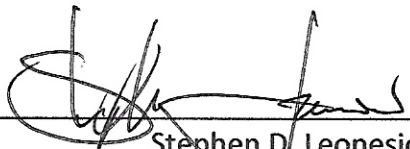
The City did not show cause to eliminate this benefit from this Association.

11. Annual Leave Buy-Back Calculated on Base Hourly Rate Only, Article VII, Section 7.1.9 and Section 7.1.10 - Association members currently have the ability to use their vacation time as well as sell back a portion of their earned accrual for cash. The City stated they would save money if the employees were only able to sell their vacation hours at their base hourly rate. If an employee were to use their vacation time (take the time off) the employee would get full pay (regular rate) during the period they were off on vacation. However, based on the City's proposal, if that same employee sold back some of their vacation hours, they would get less pay for doing so.

Based on recent case law (National City Police Officers' Association v. City of National City, 105 Cal.Rptr.2d 237) the Association's representatives believe, without mutual agreement, the City could not impose this change without the Association's consent. If the City did impose this change, which would harm the employees, they would most certainly have to litigate this change.

The City did not provide any documentation stating how much money this change would potentially save. I would guess it would not save enough money to cover litigation costs.

The City did not show cause to eliminate this benefit from this Association.



Stephen D. Leonesio
Association's Factfinding Panel Member

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FACT FINDING PROCEEDINGS
CITY OF CORONA & CORONA SUPERVISORS ASSOCIATION

CITY OF CORONA	PERB case# LA-IM-249-M
And	fact finder case #17-10-11 FF
CORONA SUPERVISORS ASS'N	
Issue: 2017 successor MOU negotiations impasse	PARTIAL DISSENT/PARTIAL
	CONCURRENCE

As the fact finding panel member appointed by the City of Corona (City) I submit the following in response to the recommendations issued by panel chair Renee Mayne. In so doing I dissent in part and concur in part as explained below.

I concur with all of Ms. Mayne's recommendations with the following two exceptions, and as to those two I dissent: medical allowance and medical difference.

The Corona Supervisors Association (CSA) consists of approximately 42 members. While dwarfed in size by the bargaining unit represented by the Corona General Employees Association (CGEA) the issues placed on the table for negotiations were similar. Because the CGEA unit is about six times larger than CSA, the total dollar amounts are much larger for the larger unit. However, as the issues and concerns of both the City and the employee groups were very similar, the reasons advanced by the parties as to the two groups were virtually identical.

The City made a persuasive showing of its difficult financial straits. The City's financial difficulties are not new: in recent years the City has significantly reduced the

size of its work force—resulting in layoffs along with elimination of vacant positions, and has cut other expenses outside of personnel costs. These actions have allowed the City to have balanced budgets without dipping into reserves—until now. The City's ability to enhance its revenue sources is limited by the nature of the City itself, primarily a residential community without major facilities that could contribute to the tax base: tourist attractions, shopping malls, major hotels, theme parks, etc.

Additionally, major costs out of City control have significantly increased expense obligations, and are anticipated to keep rising. Two of the most significant are employee health insurance premiums and assessments for the employee pension system, known as CalPERS. The latter is a defined benefit annuity system administered by a department of the State. As a defined benefit system, the State is obligated to raise sufficient revenue to fund current and future annuity payments based only on a retiree's age at retirement, number of years of service credits in the system, and the benefit formula either adopted by the employing agency (e.g. 2.7% at 55) or as dictated by statute (2% at 62 for so-called "new members" first hired into the system on or after January 1, 2013.) CalPERS has only two sources of money: growth in its investments (I have read that CalPERS is among the largest investors on Wall Street) and contributions from state and local agencies who contract with PERS to provide pension benefits to employees. In recent years, as CalPERS investments have not done well, the amount demanded from public employers has increased dramatically, even in light of the 2013 pension reform act (known as "PEPRA"; Gov. Code section 7522 et seq.) which was supposed to reduce pension costs. In any case, the City MUST pay whatever CalPERS demands; there are no negotiations with Sacramento on this issue. Currently, the City is required to pay 42 cents to CalPERS for every dollar of employee payroll for CGEA members. The percentage for safety employees (police and fire) is even higher. Despite these large and rapidly increasing contribution rates (through no fault of the City) the pension plans for the City's employees are substantially underfunded – to the tune of over a quarter billion dollars. The funded ratio for the plan for non-sworn employees is only 60.1%, which is among the lowest in the state.

The City had wisely set up two reserve accounts, one for budget balancing purposes and another for emergencies such as natural disasters. However, due to the financial problems discussed, the City has now needed to tap into its reserves to cover shortfalls in revenues in light of expenses. Indeed, the budget for the current fiscal year (2017-2018) anticipates needing \$1.9 million from the budget balancing reserve to close the expected gap between money coming in and money going out. Those deficits are projected to grow to \$6.7 million in 2018-2019, and to \$14 million or more in each of the following several years. As personnel costs are always the overwhelming majority of costs of operating a public agency (over 70% in Corona's case) any effort to reduce expenses must by necessity look at ways to reduce labor costs. As the City is at the

mercy of CalPERS as to amounts it must pay into the pension system, the City must look at other employment related costs in any effort to reduce expenses.

The City forecasts total depletion by 2022 not only of the budget balancing reserve, but also of the emergency reserve. The City is facing a bill for a recent fire that partially invaded the City. This is the type of expense this reserve account is intended for. What will happen after this reserve is depleted should there be more fires, a major earthquake or some other natural disaster?

In light of the above, as well as other considerations presented at the hearing in this matter, I dissent only as to the two issues discussed below. In all other respects I concur with Ms. Mayne's recommendations.

Medical allowance. My only disagreement with the panel chair's recommendation is that the City's proposal should be implemented January 1, 2018, rather than in 2019. Deferring the implementation by twelve months sends the City's budget deficit even higher and will require a greater invasion of City reserves.


Medical differential. For reasons not disclosed, the City and CSA agreed in the now expired MOU to allow each Tier II employee to take as additional taxable cash the difference between the premium for the health insurance plan selected by the employee and the premium for a plan applicable to families only, regardless of whether the employee needs family coverage. Based upon this arrangement, one-half of the unit receives significant additional income above their pay rate. Ten of the Tier II employees (those hired between 1999 and 2012) receive between \$15,000.00 and \$18,000.00 per year each in additional cash through this so-called medical difference benefit. Another ten receive approximately \$6,200.00 each.

In this day where public concerns demand transparency and accountability from government, this arrangement is a scandal waiting to happen. To the citizens and voters in the City, who almost certainly do not receive this sort of benefit in their jobs, this looks like what it is—a method to put money into City employee pockets behind a disguise. Therefore, this benefit needs to end, and not only because of the cost.

The City's proposal is to eliminate this benefit. CSA agrees with the elimination but seeks to do so incrementally over a three year period. I appreciate the panel chair's concern about "easing" Tier II employees off of medical difference by payments in 2018 and 2019 of their 2017 amount received up to a maximum of \$4500.00 in 2018 and a maximum of \$3000.00 in 2019. However, the fact is simply that these payments would increase the deficits and increase the amounts that will need to be withdrawn from the reserve account. In 2018 and 2019. Twenty employees (about one-half of the CSA unit) would receive the full \$4500, for a total of \$90,000, and in 2019 those same employees would receive the full \$3000 for a total of \$60,000, and thus a two year total of

\$150,000. The City simply cannot afford these amounts. Thus, while I concur that the medical difference should end December 31, 2017, I cannot concur with the recommendation for the two payments.

Respectfully submitted,



Jeffrey C. Freedman, City panel member

Dated: October 31, 2017